



Memorandum

TO: Planning Commission

FROM: Courtney Damkroger

SUBJECT: See Below

DATE: March 2, 2004

District: Citywide

SUBJECT: PROPOSED ORDINANCE AMENDING PART 2, CHAPTER 13.48 OF TITLE 13 OF THE SAN JOSE MUNICIPAL CODE TO PROVIDE FOR CONSERVATION AREA PROCEDURES.

Background

In December 2001 the San Jose City Council adopted an ornamental street lighting policy that allows for the use of such lights in designated historic districts and conservation areas. At that time, the Department of Planning, Building and Code Enforcement committed to develop and codify criteria and procedures for the designation of conservation areas in San Jose. The Department provided Council with a schedule for a Conservation Area Study that would evaluate the use of conservation areas in other communities and make recommendations for local procedures.

From January through October of 2002, Planning staff worked with community members, the Historic Landmarks Commission and the Planning Commission on a proposal to define and codify conservation area provisions in San Jose's Municipal Code. The conservation area provisions would amend the Historic Preservation Ordinance, Chapter 13.48 of the San Jose Municipal Code. On February 19, 2004 Planning staff held a community meeting to discuss the final draft proposal. Many of the community representatives who were active in drafting the proposal in 2002 attended the February meeting. The comments from that meeting as well as a list of those in attendance is attached.

San Jose currently has five historic districts and three conservation areas. The City's three conservation areas are residential neighborhoods.

Historic Districts:

- ◇ Hensley Historic District (City Landmark and National Register Historic District)
- ◇ Downtown Commercial Historic District (National Register Historic District)
- ◇ St. James Square Historic District (City Landmark and National Register Historic District)
- ◇ Port of Alviso (National Register and State Point of Historical Interest)
- ◇ River Street Historic District (City Landmark District)

Conservation Areas:

- ◇ Hanchett and Hester Park
- ◇ Naglee Park
- ◇ Palm Haven

The final draft proposal from 2002 has changed very little. Many people contributed to the preparation and clarification of this process and many worthwhile suggestions were made for improving single family home related planning and building procedures. The final draft reflects the comments generated through numerous forums, community meetings and public hearings.

The Historic Landmarks Commission will review the proposal on March 3, 2004. It is expected that the proposal will be heard by the City Council at its March 30, 2004 meeting.

Analysis

Conservation areas are generally used around the country as a mechanism to preserve and enhance neighborhood areas that have a cohesiveness or character, but that do not merit consideration as an historic district. These areas warrant careful consideration during development planning due to their distinctive qualities and are important in the overall fabric of the community. In some cases, the conservation area approach is used where designation as an historic district is not supported by residents.

The following draft provisions are the combined result of San Jose's existing Conservation Area program, research from other city conservation programs, and numerous community meetings to assist in designing a program.

Purpose: Conservation Areas are established to provide a designation tool to recognize as well as to preserve and enhance the character of qualifying neighborhoods.

Definition: Conservation Area shall mean a geographically definable area of urban or rural character with identifiable attributes embodied by a) architecture, urban design, development patterns, setting, or geography and b) history.

Criteria: The proposed Conservation Area shall satisfy the proposed definition and one or both of the following criteria:

1. The neighborhood or area has a distinctive character conveying a) a sense of cohesiveness through its design, architecture, setting, materials, or natural features and b) its history, or
2. The neighborhood or area reflects significant geographical or developmental patterns associated with different eras of growth in the City.

Procedure for Designation of Conservation Areas:

The proposal reflects the process established for historic district designation in Part 2, Chapter 13.48 of the Municipal Code with revisions as follows:

- The area is geographically definable and meets the definition and designation criteria

- Nominations shall be made by the City Council, Planning Commission, Historic Landmarks Commission, or by application of persons who own fifty-one percent of the land proposed to be included in the district or the authorized agents of such owners. Sixty percent owner consent is required for historic districts (*note, owner consent is required only when the nomination comes from the neighborhood*).
- The City Council shall initiate the designation process by resolution.
- The Planning Director refers the initiation to the Historic Landmarks Commission and to the Planning Commission for report and recommendation to the City Council. The Landmarks Commission, Planning Commission and subsequent City Council meetings are public hearings requiring public noticing (300 feet) and publication in a newspaper of general circulation.
- City Council shall hold a public hearing and by written resolution shall approve, modify and approve, or deny the designation.
- Proposed amendments to a conservation area would, like historic districts, be subject to the designation process. Fifty-one percent of the persons owning the land proposed to be included in the area to be amended must consent to the amendment. In addition, proposed amendments must be adjacent to the existing conservation area.

Members of the Planning Commission at previous study sessions on this issue suggested recording the designation of conservation area on the property title. Planning staff is pursuing this suggestion with the County Recorder's office.

Application Requirements:

To ensure that each proposed conservation area is researched and documented according to accepted historic preservation standards, a historic resource survey will be required for each proposed conservation area. Historic resource surveys vary in the intensity and depth of information required depending upon the final objective. In general, surveys for conservation areas would require a less intensive level than those prepared for a historic district. Community involvement in the survey and research process is recommended both as a cost savings and as a public education tool. The basic requirements for a conservation area application and survey are outlined below:

- Applications shall be subject to filing fees.
- Applications shall include:
 - Discussion of how the conservation area meets the criteria set forth above.
 - A statement of significance for the Conservation Area (for example, a District Record, Department of Parks and Recreation (DPR) 523D form, see attached)
 - Description and map of the conservation area boundaries with identification of the contributing properties
 - Documentation (for example, a Primary Record, DPR Primary Record form, see attached) for each contributing resource in the conservation area
- All work shall be conducted according to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, National Register Bulletin #24, Guidelines for Local Surveys: A Basis for Preservation Planning, and the Office of Historic Preservation instructions, where applicable.

Design Review:

Conservation areas are included in the San Jose Historic Resources Inventory. All single-family homes listed in the Inventory are subject to the Single Family House Permit process found in Title 20 of the Municipal Code.

- All homes within the boundaries of a conservation area whether they are contributing to the character of the area or not will be subject to the single-family house permit process.
- Exterior changes to homes in conservation areas should be guided by Your Old House: Guide to Preserving San Jose Homes recently approved by City Council and created through a significant public effort. The Single Family Design Guidelines is also a reference. Both are available online and are for sale at the Planning Public Information Counter. The guidelines are intended to assist property owners, architects, builders, designers, contractors, City staff and commissions in project preparation and review.

Finally, Planning staff will recommend to the City Council that the ornamental street light program be separated from designation as a conservation area or historic district as there may be situations where the streetlights are the only motivation for designation.

Environmental Review

Under the provisions of Section 15307 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from environmental review in that the project is limited to an action taken by a regulatory agency as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Recommendations

Planning staff recommends that the Planning Commission provide comments on the proposal and forward a recommendation to the City Council to recommend approval of an ordinance amending Part 2, Chapter 13.48 of the Title 13 of the San Jose Municipal Code to provide for conservation areas procedures.

Courtney Damkroger
Historic Preservation Officer

Attachments: Conservation Area Meeting Notes
DPR District and Primary Record forms
Frequently Asked Questions

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